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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,065	09/09/2003	Nancy Lucas	CGL030351US01	9198
53175 7590 12/16/2009 CARGILL, INCORPORATED P.O. Box 5624 MINNEAPOLIS, MN 55440-5624				
EXAMINER				
PASCUA, JES F				
ART UNIT		PAPER NUMBER		
3782				
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12/16/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/657,065

Applicant(s)

LUCAS ET AL.

Examiner

Jes F. Pascua

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
Paper No(s)/Mail Date: _____
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/29/2009 has been entered.

Claim Objections

2. Claims 71-74 are objected to under 37 CFR 1.75 as being substantial duplicates of claims 4, 16, 17 and 66, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). It is noted that applicant's remarks, filed 09/29/2009, state "claims 71-74, which depend from claim 70". Therefore, for purposes of examination, will be considered as being dependent from claim 70.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 66-69 and 74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 66-69 and 74, the first flap has not been defined to warrant the language "the surface area distal to the non-resealable first area"

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4, 5, 8-17, 19, 20, 24-30, 32, 42, 44, 48-54, 56, 57, 59, 61 and 63-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,593,229 to Warr, U.S. Patent No. 3,249,285 to Dollheimer et al. and U.S. Patent No. Des. 327,217 to Wallace.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Dollheimer et al. shows that it is known in the art to form handle from a flap (21) including a double stack

of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal (22) coextensive with the surface area distal to a non-resealable seam (19). See Fig. 4. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Dollheimer et al., in order to increase the carrying strength of the handle.

Furthermore, Warr and Dollheimer et al. disclose the claimed invention, as discussed above. Warr especially discloses an end of a bag including a tear seam. However, Warr does not show the opposite end of the bag including a handle and tear seam. Wallace teaches that it is known in the art of bags to provide a mirror image of one end of a bag at the bag's opposing end (Fig. 7). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the opposing ends of the modified Warr bag with identical end structures (i.e., the modified Warr handle and tear seam), as taught by Wallace, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Applicant's remarks, filed 09/29/2009, inadequately address the Examiner's statement of obvious duplication of essential working parts. Therefore, the Examiner's statement

that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the opposing ends of the modified Warr bag with identical end structures is taken to be admitted prior art.

7. Claims 2, 4-10, 13-15, 19, 20, 22-25, 27-29, 32, 42, 44, 46-50, 53, 54, 59, 61 and 63-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warr, Dollheimer et al. and U.S. Patent No. 5,578,562 to Anspacher.

Warr discloses the claimed invention, especially the handle comprising a patch. However, Warr does not show the handle formed from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam. Dollheimer et al. shows that it is known in the art to form handle from a flap (21) including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks of panels or both are sealed to each other by a distal seal (22) coextensive with the surface area distal to the non-resealable seam (19). See Fig. 4. It would have been obvious to a person having ordinary skill at the time the invention was made to form the handle of Warr from a flap including a double stack of panels formed from portions of the opposing panels folded over along a fold line transverse to the longitudinal direction and attached to themselves, wherein the opposing panels, stacks

of panels or both are sealed to each other by a distal seal coextensive with the surface area distal to the non-resealable seam, as taught by Dollheimer et al., in order to increase the carrying strength of the handle.

Furthermore, Warr and Dollheimer et al. disclose the claimed invention, as discussed above, except for a rigid plastic handle on the end of the bag opposing the bag end with the integral handle. Anspacher teaches that it is known in the art of bags to provide a rigid plastic handle on a bag end that is opposite the bag end that includes an integral handle. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the rigid plastic handle of Anspacher on the end opposite the end with the integral handle in the modified Warr bag, in order to facilitate manipulating the bag. Regarding claims 7, 23 and 47, the recitation "injection-molded plastic handle" does not define over the rigid plastic handle of Anspacher. The method of forming the handle is not germane to the issue of patentability of the handle itself. Therefore, this limitation has been given little patentable weight.

Response to Arguments

8. Applicant's arguments with respect to claims 2, 4-17, 19, 20, 22-30, 32, 42, 44, 46-54, 56, 57, 59, 61 and 63-74 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/
Primary Examiner, Art Unit 3782